

**House File 38 - Introduced**

HOUSE FILE 38

BY HUNTER

**A BILL FOR**

1 An Act requiring the payment of local prevailing wage rates to  
2 persons working on public improvements for public bodies,  
3 and providing remedies and penalties and including effective  
4 date provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 84A.5, subsection 4, Code 2015, is  
2 amended to read as follows:

3 4. The division of labor services is responsible for the  
4 administration of the laws of this state under chapters 88,  
5 88A, 88B, 89, 89A, 89B, 90A, 91, 91A, 91C, 91D, 91E, 91F, 92,  
6 and 94A, and section 85.68. The executive head of the division  
7 is the labor commissioner, appointed pursuant to section 91.2.

8 Sec. 2. Section 91.4, subsection 2, Code 2015, is amended  
9 to read as follows:

10 2. The director of the department of workforce development,  
11 in consultation with the labor commissioner, shall, at the  
12 time provided by law, make an annual report to the governor  
13 setting forth in appropriate form the business and expense of  
14 the division of labor services for the preceding year, the  
15 number of remedial actions taken under chapter 89A, the number  
16 of disputes or violations processed by the division and the  
17 disposition of the disputes or violations, and other matters  
18 pertaining to the division which are of public interest,  
19 together with recommendations for change or amendment of the  
20 laws in this chapter and chapters 88, 88A, 88B, 89, 89A, 89B,  
21 90A, 91A, 91C, 91D, 91E, 91F, 92, and 94A, and section 85.68,  
22 and the recommendations, if any, shall be transmitted by the  
23 governor to the first general assembly in session after the  
24 report is filed.

25 Sec. 3. NEW SECTION. 91F.1 Short title.

26 This chapter shall be known and may be cited as the "*Public*  
27 *Improvement Quality Protection Act*".

28 Sec. 4. NEW SECTION. 91F.2 Public policy.

29 It is in the public interest that public improvements  
30 are completed by the best means and highest quality of labor  
31 reasonably available, and that workers working on public  
32 improvements be compensated according to the real value of the  
33 services they perform. It is the policy of this state that the  
34 wages of workers working on public improvements should be at  
35 least equal to the prevailing wage rates paid for similar work

1 by responsible contractors in the community as a whole in order  
2 to accomplish all of the following:

3 1. Protect workers and their contractors and subcontractors  
4 from the effects of serious and unfair competition resulting  
5 from wage levels detrimental to efficiency and well-being.

6 2. Ensure that contractors compete with one another  
7 on the basis of the ability to perform work competently  
8 and efficiently while maintaining community-established  
9 compensation standards.

10 3. Recognize that local participation in public  
11 improvements and family wage income and benefits are essential  
12 to the protection of community standards.

13 4. Encourage training and education of workers to industry  
14 skills standards.

15 5. Encourage contractors and subcontractors to use funds  
16 allocated for employee fringe benefits for the actual purchase  
17 of those benefits.

18 Sec. 5. NEW SECTION. 91F.3 Definitions.

19 As used in this chapter, unless the context otherwise  
20 requires:

21 1. "*Commissioner*" means the labor commissioner appointed  
22 pursuant to section 91.2.

23 2. "*Contractor*" or "*subcontractor*" means a person who  
24 undertakes, offers to undertake, purports to have the capacity  
25 to undertake, or submits a bid, individually or through others,  
26 to engage in a public improvement.

27 3. "*Custom fabrication*" means the fabrication of plumbing,  
28 heating, cooling, ventilation, architectural systems,  
29 structural systems, exhaust duct systems, or mechanical  
30 insulation.

31 4. "*Division*" means the division of labor of the department  
32 of workforce development.

33 5. a. "*Fringe benefits*" means the following for the  
34 provision or purchase of any of the benefits enumerated in  
35 paragraph "b":

1 (1) The contribution irrevocably made by a contractor or  
2 subcontractor to a trustee or to a third person pursuant to a  
3 plan, fund, or program.

4 (2) The costs to the contractor or subcontractor which  
5 may be reasonably anticipated in providing benefits to  
6 workers pursuant to an enforceable commitment to carry out a  
7 financially responsible plan or program, given in writing to  
8 the workers affected.

9 b. (1) Medical or hospital care.

10 (2) Pensions or annuities on retirement or death.

11 (3) Supplemental unemployment benefits.

12 (4) Life insurance.

13 (5) Disability and sickness insurance.

14 (6) Accident insurance for nonwork-related accidents.

15 (7) Vacation or holiday pay.

16 (8) Defraying costs of apprenticeship programs approved by  
17 and registered with the United States department of labor's  
18 office of apprenticeship.

19 6. "*Interested party*" means any of the following:

20 a. A contractor who submits a bid for the purpose of  
21 securing the award of a contract for a public improvement.

22 b. A subcontractor of a contractor mentioned in a bid  
23 referred to in paragraph "a".

24 c. A worker employed by a contractor or subcontractor  
25 described in either paragraph "a" or "b".

26 d. A labor organization that represents workers engaged  
27 in the same craft or classification as workers employed by a  
28 contractor or subcontractor described in either paragraph "a"  
29 or "b" and that exists, in whole or in part, for the purpose  
30 of negotiating with employers concerning the wages, hours, or  
31 terms and conditions of employment of employees.

32 e. A joint labor-management committee established pursuant  
33 to the federal Labor Management Cooperation Act of 1978, 29  
34 U.S.C. §175a.

35 7. "*Locality*" means a county of this state.

1     8. *"Maintenance work"* means the repair of existing public  
2 improvements when the size, type, or extent of the public  
3 improvement is not changed or increased.

4     9. *"Prevailing wage rate"* means the hourly wage plus  
5 fringe benefits, which the commissioner determines prevails in  
6 accordance with this chapter, including all of the following:

7     a. Apprentice ratios and the prevailing apprentice pay  
8 levels for each craft, classification, or type of worker which  
9 the commissioner determines prevails in accordance with section  
10 91F.5.

11    b. A prevailing rate for overtime pay for work in excess  
12 of the normal prevailing workday and for weekend overtime pay  
13 for each craft, classification, or type of worker, including  
14 apprentices.

15    c. Holiday pay for holidays that prevail in the locality in  
16 which the work is being performed.

17    10. *"Public body"* means the state and any of its political  
18 subdivisions, including but not limited to a county, city,  
19 township, school district, state board of regents, and public  
20 utility. For the purposes of this chapter, *"public utility"*  
21 includes municipally owned utilities and municipally owned  
22 waterworks.

23    11. a. *"Public improvement"* means any of the following that  
24 meets the criteria set out in paragraphs *"b"* and *"c"*:

25       (1) Construction, alteration, reconstruction, repair,  
26 rehabilitation, refinishing, refurbishing, remodeling,  
27 renovation, custom fabricating, maintenance, landscaping,  
28 improving, moving, wrecking, painting, decorating, or  
29 demolishing of, or adding to or subtracting from any building,  
30 structure, highway, road, street, bridge, alley, sewer, ditch,  
31 sewage disposal plant, waterworks, parking facility, railroad,  
32 excavation or other structure, project, development, or  
33 improvement, or any part thereof undertaken by a public body,  
34 including any of the following related activities:

35       (a) The erection of scaffolding or other structures or

1 works.

2 (b) The maintenance, repair, assembly, or disassembly of  
3 equipment.

4 (c) The testing of materials.

5 (d) The hauling of refuse from a site to an outside disposal  
6 location.

7 (e) The cleaning of grounds or structures.

8 (f) The addition to or fabrication into any structure,  
9 project, development, or improvement of any material or article  
10 of merchandise undertaken by a public body.

11 (2) The preparation and removal of roadway construction  
12 zones, lane closures, flagging, or traffic diversions  
13 undertaken by a public body.

14 (3) The installation, repair, maintenance, or calibration  
15 of monitoring equipment for underground storage tanks  
16 undertaken by a public body.

17 (4) Work that is performed on any property or premises  
18 dedicated exclusively or nearly so to the completion of a  
19 public improvement, and transportation of supplies, material,  
20 and equipment to or from the property or premises undertaken  
21 by a public body.

22 b. Work on the public improvement is performed under public  
23 supervision or direction, and the work is financed wholly or  
24 in part from public funds, or if at the time of commencement  
25 of the public improvement all of the following conditions with  
26 respect to the public improvement are met:

27 (1) Not less than fifty-five percent of the structure is  
28 leased by a public body, or is subject to an agreement to be  
29 subsequently leased by a public body.

30 (2) The portion of the structure that is leased or subject  
31 to an agreement to be subsequently leased by a public body  
32 measures more than twenty thousand square feet.

33 c. The public improvement has an estimated total cost that  
34 exceeds twenty-five thousand dollars.

35 12. "Worker" means an individual who performs any

1 labor or service for a contractor or subcontractor on a  
2 public improvement but does not include an individual when  
3 transporting a seller, supplier, manufacturer, or processor of  
4 materials or equipment. The individual is deemed an employee  
5 of a contractor or subcontractor unless all of the following  
6 apply:

7     *a.* The individual provides labor or services free from the  
8 direction or control over the means and manner of providing the  
9 labor or services, subject only to the right of the person for  
10 whom the labor or services are provided to specify the desired  
11 results.

12     *b.* The individual providing the labor or services is  
13 responsible for obtaining business registrations or licenses  
14 required by state law or local ordinance to provide the labor  
15 or services.

16     *c.* The individual providing the labor or services furnishes  
17 the tools and equipment necessary to provide the labor or  
18 services.

19     *d.* The individual providing the labor or services has the  
20 authority to hire and fire employees to perform the labor or  
21 services.

22     *e.* Payment for the labor or services is made upon  
23 completion of the performance of specific portions of a public  
24 improvement, or is made on the basis of a periodic retainer.

25     *f.* The individual providing the labor or services represents  
26 to the public that the labor or services are to be provided  
27 by an independently established business. An individual is  
28 engaged in an independently established business when four or  
29 more of the following circumstances exist:

30         (1) Labor or services are primarily performed at a location  
31 separate from the individual's residence or in a specified  
32 portion of the residence that is set aside for performing labor  
33 or services.

34         (2) Commercial advertising or business cards are purchased  
35 by the individual, or the individual is a member of a trade or

1 professional association.

2 (3) Telephone or electronic mail listings used by the  
3 individual for the labor or services are different from the  
4 individual's personal listings.

5 (4) Labor or services are performed only pursuant to a  
6 written contract.

7 (5) Labor or services are performed for two or more persons  
8 or entities within a period of one year.

9 (6) The individual assumes financial responsibility  
10 for errors and omissions in the performance of the labor or  
11 services as evidenced by insurance, performance bonds, and  
12 warranties relating to the labor or services provided.

13 Sec. 6. NEW SECTION. 91F.4 Administration.

14 The commissioner and the division shall administer this  
15 chapter.

16 Sec. 7. NEW SECTION. 91F.5 Determination of prevailing  
17 wages.

18 1. The commissioner shall determine annually and publish,  
19 on the first business day of July, the prevailing wage rates  
20 by locality for each craft, classification, or type of worker  
21 needed to perform work on public improvements. The rates shall  
22 be conclusive for one year from the date of publication unless  
23 superseded within the one year by a later publication of the  
24 commissioner, or for a longer period as provided in subsection  
25 5.

26 2. The commissioner shall announce all prevailing wage rate  
27 determinations by locality and give notice by posting them  
28 on the portion of the department of workforce development's  
29 internet site related to the division. A printed version of  
30 the prevailing wage rates for the state shall be available to  
31 the public upon request to the division.

32 3. The public body awarding any contract for a public  
33 improvement, or otherwise undertaking any public improvement,  
34 shall obtain from the internet site the prevailing wage rate  
35 in the locality in which work on the public improvement is



1 to be performed for each craft, classification, or type of  
2 worker needed to perform work on the public improvement.  
3 After a public improvement contract is awarded, or a public  
4 improvement is otherwise undertaken, the prevailing wage  
5 rate published by the commissioner and stated in the public  
6 body's public improvement procurement documents shall remain  
7 in effect throughout the duration of the public improvement  
8 unless superseded by a later determination and publication by  
9 the commissioner, or unless multiyear prevailing wage rates  
10 have been published by the commissioner at the time the public  
11 improvement procurement documents were released.

12 4. a. In determining the annual prevailing wage rate  
13 for any craft, classification, or type of worker, the  
14 commissioner shall ascertain and consider the applicable  
15 wage rates and fringe benefits established by collective  
16 bargaining agreements, the prevailing wage rate determinations  
17 that may exist for federal public improvements within the  
18 locality and other data obtained by the department during any  
19 prevailing wage rate survey of contractors who participate in  
20 an apprenticeship program approved by and registered with the  
21 United States department of labor's office of apprenticeship,  
22 who provide health insurance and retirement benefits for their  
23 workers, and who are registered with the division. Based  
24 upon these considerations, the commissioner shall calculate  
25 the prevailing wage rates based on the wage rate plus fringe  
26 benefits most often occurring for each craft, classification,  
27 or other type of worker within each locality.

28 b. The minimum annual prevailing wage rate determination  
29 established by the department shall not be lower than the  
30 prevailing wage rate determination that may exist for federal  
31 public improvements within the locality and in the nearest  
32 labor market area.

33 c. None of the fringe benefits enumerated in this chapter  
34 may be considered in the determination of prevailing wage  
35 rates if the contractor or subcontractor is required by other

1 federal, state, or local law to provide such fringe benefits.

2     5. If the commissioner determines that the prevailing  
3 wage rate for any craft, classification, or type of worker  
4 is the rate established by a collective bargaining agreement  
5 applicable in the locality, the commissioner may adopt that  
6 rate by reference and that determination shall be effective  
7 for the life of the agreement or until the commissioner adopts  
8 another rate.

9     6. *a.* At any time within fifteen days after the division  
10 has published on the department of workforce development's  
11 internet site the annual prevailing wage rates for each  
12 classification, craft, or other type of worker in the locality,  
13 any interested person affected may object to the determination  
14 or the part of the determination as the interested person  
15 may deem objectionable by filing a written notice with the  
16 commissioner by restricted certified mail as defined in  
17 section 618.15. When objecting to a prevailing wage rate  
18 determination, the interested person shall submit, as a  
19 part of the written notice, the prevailing wage rate the  
20 interested person believes to be the correct prevailing wage  
21 rate determination, stating the specific grounds to support  
22 that position. Upon receipt of the notice of objection, the  
23 commissioner shall reconsider the determination and shall  
24 affirm or modify the determination and reply in writing by  
25 restricted certified mail to the interested person within  
26 fifteen days from the date of the receipt of the notice of  
27 objection. Any modification to the prevailing wage rate  
28 determination shall be effective on the date the modification  
29 is published by the commissioner.

30     *b.* If the commissioner declines to modify the determination,  
31 within ten days upon receiving receipt of the commissioner's  
32 decision, the interested person affected may submit in writing  
33 the objection to the division by restricted certified mail,  
34 stating the specified grounds of the objection. The department  
35 of inspections and appeals shall be notified of the objection

1 and set a date for a hearing before an administrative law judge  
2 on the objection, after giving notice by restricted certified  
3 mail to the interested person and the division at least ten  
4 days before the date of the hearing of the time and place of  
5 the hearing. The hearing shall be held within forty-five days  
6 after the objection is filed, and shall not be postponed or  
7 reset for a later date except upon the consent, in writing, of  
8 the interested person and the division.

9     7. The party requesting a hearing shall have the burden of  
10 establishing that the annual prevailing wage rate determination  
11 for that locality was not determined in accordance with this  
12 chapter. If the party requesting a hearing under this section  
13 objects to the commissioner's failure to include a craft,  
14 classification, or type of worker within the annual prevailing  
15 wage rate determination in the locality, the objector shall  
16 have the burden of establishing that there is no existing  
17 prevailing wage rate classification for the particular craft,  
18 classification, or type of worker in any of the localities  
19 under consideration.

20     8. The administrative law judge may in the administrative  
21 law judge's discretion hear each written objection filed  
22 separately or consolidate for hearing any one or more written  
23 objections filed with the division. At the hearing, the  
24 division shall introduce into evidence the investigation it  
25 instituted which formed the basis of its determination, and the  
26 division or any interested objectors may introduce evidence  
27 that is material to the determination. The administrative  
28 law judge shall rule upon each written objection and make a  
29 final determination, as the administrative law judge believes  
30 the evidence warrants, and promptly serve a copy of the final  
31 determination by personal service or restricted certified mail  
32 on all parties to the proceedings. The administrative law  
33 judge shall render a final determination within thirty days  
34 after the conclusion of the hearing.

35     9. If proceedings to review judicially the final

1 determination of the administrative law judge are not  
 2 instituted as provided in this section, the determination  
 3 shall be final and binding. The provisions of section 17A.19  
 4 shall apply to and govern all proceedings. Appeals from all  
 5 final orders and judgments entered by the court in review of  
 6 the final determination of the administrative law judge may be  
 7 taken by any party to the action. In all reviews or appeals  
 8 under this chapter, the attorney general shall represent the  
 9 division and defend its determination.

10 10. This section does not give reason or provide cause for  
 11 an injunction to halt or delay any public improvement.

12 Sec. 8. NEW SECTION. 91F.6 Payment of prevailing wages  
 13 required.

14 1. Contractors and subcontractors engaged in a public  
 15 improvement shall pay not less than the current specified  
 16 prevailing wage rates to all of their workers engaged in the  
 17 public improvement. However, this chapter does not prohibit  
 18 the payment of more than the prevailing wage rate to any  
 19 workers engaged in a public improvement.

20 2. All contractors and subcontractors required to pay the  
 21 prevailing wage rate under this chapter shall pay the wages  
 22 in legal tender, without any deduction for food, sleeping  
 23 accommodations, transportation, use of tools or safety  
 24 equipment, vehicle or equipment rental, or any other thing of  
 25 any kind or description.

26 Sec. 9. NEW SECTION. 91F.7 Requirements for public  
 27 improvements.

28 1. The public body awarding a contract for a public  
 29 improvement or otherwise undertaking a public improvement shall  
 30 specify in the call for bids for the contract that this chapter  
 31 applies to the public improvement.

32 2. If a public improvement requires the payment of  
 33 prevailing wage rates, the public body shall require the  
 34 contractor to execute a written instrument that not less  
 35 than the prevailing wage rate shall be paid to all workers

1 performing work on the public improvement. The written  
2 instrument shall also contain a provision that if it is  
3 found that any of the contractor's workers engaged in the  
4 public improvement has been paid at a wage rate less than the  
5 prevailing wage rate required by this chapter, the public body  
6 may terminate the contractor's right to proceed with the work  
7 and the contractor and its sureties shall be liable to the  
8 public body for any excess costs occasioned by the failure to  
9 pay the prevailing wage rate. The written instrument shall  
10 have attached a list of the specified prevailing wage rates  
11 for all crafts, classifications, or types of workers in the  
12 locality for each worker needed to be included in the contract  
13 for the public improvement.

14 3. If a contract is let for a public improvement requiring  
15 the payment of prevailing wage rates, the public body  
16 awarding the contract shall cause to be inserted in the public  
17 improvement specifications and contract a stipulation that not  
18 less than the prevailing wage rate shall be paid to all workers  
19 performing work under the contract. The contract shall also  
20 contain a provision to the effect that if it is found that any  
21 of the contractor's workers engaged in the public improvement  
22 has been paid at a wage rate less than the prevailing wage rate  
23 required by this chapter, the public body may terminate the  
24 contractor's right to proceed with the work and the contractor  
25 and its sureties shall be liable to the public body for any  
26 excess costs occasioned by the failure to pay the prevailing  
27 wage rate. All bid specifications shall list the specified  
28 prevailing wage rates for all crafts, classifications, or  
29 types of workers in the locality for each worker needed to be  
30 included in the contract.

31 4. If a public improvement requires the payment of  
32 prevailing wage rates, the contractor shall require any  
33 subcontractors engaged by the contractor on the public  
34 improvement to execute a written instrument that not less  
35 than the prevailing wage rates shall be paid to all workers

1 performing work on the public improvement. The written  
2 instrument shall also contain a provision that if it is  
3 found that any of the subcontractor's workers engaged in the  
4 public improvement has been paid at a wage rate less than the  
5 prevailing wage rate required by this chapter, the public body  
6 may terminate the subcontractor's right to proceed with the  
7 work and the subcontractor and its sureties shall be liable to  
8 the public body for any excess costs occasioned by the failure  
9 to pay the prevailing wage rate. The written instrument shall  
10 have attached a list of the specified prevailing wage rates  
11 for all crafts, classifications, or types of workers in the  
12 locality for each worker needed to be included in the contract.

13 5. If a subcontract is let for a public improvement  
14 requiring the payment of the prevailing wage rate, the  
15 contractor to whom the contract is awarded shall insert  
16 into the subcontract and into the public improvement project  
17 specifications for each subcontract a written stipulation that  
18 not less than the prevailing wage rate shall be paid to all  
19 workers performing work under the subcontract. A subcontractor  
20 shall insert into each lower-tiered subcontract a stipulation  
21 that not less than the prevailing wage rate shall be paid  
22 to all workers performing work under the subcontract. The  
23 subcontract shall also contain a provision that if it is  
24 found that any subcontractor's workers engaged in the public  
25 improvement have been paid at a wage rate less than the  
26 prevailing wage rate required by this chapter, the public body  
27 may terminate the subcontractor's right to proceed with the  
28 work and the subcontractor and its sureties shall be liable to  
29 the public body for any excess costs occasioned by the failure  
30 to pay the prevailing wage rate. All bid specifications shall  
31 list the specified prevailing wage rates for all crafts,  
32 classifications, or types of workers in the locality for each  
33 worker needed to be included in the subcontract.

34 6. A contractor or subcontractor engaging in a public  
35 improvement shall submit a performance bond in an amount

1 determined by the public body which bond shall include a  
2 provision that will guarantee the payment of the prevailing  
3 wage rates as required by the contract.

4 7. Before final payment is made by or on behalf of a public  
5 body of any sum or sums due on a public improvement, the  
6 treasurer of the public body or other officer or person charged  
7 with the custody and disbursement of the funds of the public  
8 body shall require the contractor and subcontractor to file a  
9 written statement with the public body, in a form satisfactory  
10 to the division, certifying to the amounts then due and owing  
11 from the contractor and subcontractor to any and all workers  
12 for wages due on account of the public improvement, setting  
13 forth the names of the persons whose wages are unpaid and  
14 the amount due to each respectively. The statement shall be  
15 verified by the oath of the contractor or subcontractor, as the  
16 case may be, that the contractor or subcontractor has read the  
17 statement certified by the contractor or subcontractor, knows  
18 the contents, and that the statement is true in accordance with  
19 the contractor's or subcontractor's own knowledge. However,  
20 this chapter shall not impair the right of a contractor to  
21 receive final payment from a public body because of the failure  
22 of a subcontractor to comply with provisions of this chapter.  
23 The treasurer of the public body or other officer or person  
24 charged with the custody and disbursement of the funds of the  
25 public body shall withhold the amount, if any, listed on the  
26 verified statement filed pursuant to this section for the  
27 benefit of the worker whose wages are unpaid as shown by the  
28 verified statement filed by the contractor or subcontractor,  
29 and the public body shall pay directly to any worker the amount  
30 shown by the statement to be due to the worker for the wages.  
31 Payment shall discharge the obligation of the contractor or  
32 subcontractor to the person receiving the payment to the extent  
33 of the amount of the payment.

34 8. The public body awarding a contract for a public  
35 improvement or otherwise undertaking a public improvement shall

1 notify the commissioner in writing, on a form prescribed by  
 2 the commissioner, if a contract subject to the provisions of  
 3 this chapter has been awarded. The public body shall file  
 4 the notification with the commissioner within thirty days  
 5 after the contract is awarded or before commencement of the  
 6 public improvement, and shall include a list of all first-tier  
 7 subcontractors.

8     Sec. 10. NEW SECTION. 91F.8 Federal public improvements  
 9 — not applicable.

10     The provisions of this chapter shall not be applicable  
 11 to public improvements financed entirely by federal funds  
 12 which require a prevailing wage rate determination by the  
 13 United States department of labor. However, unless a federal  
 14 provision applies, if a public improvement is financed in part  
 15 by a public body and in part by federal funds, the higher of the  
 16 prevailing wage rates shall prevail for the public improvement.

17     Sec. 11. NEW SECTION. 91F.9 Records required.

18     1. While participating in a public improvement, the  
 19 contractor and each subcontractor shall do all of the  
 20 following:

21     a. Make and keep, for a period of not less than three years,  
 22 accurate records of all workers employed by the contractor or  
 23 subcontractor on the public improvement. The records shall  
 24 include each worker's name, address, telephone number when  
 25 available, social security number, trade classification, the  
 26 hourly wages paid in each pay period, the number of hours  
 27 worked each day, and the starting and ending times of work each  
 28 day.

29     b. Submit weekly a certified payroll to the public body  
 30 in charge of the public improvement. The certified payroll  
 31 shall consist of a complete copy of the records identified in  
 32 paragraph "a". The certified payroll shall be accompanied by a  
 33 statement signed by the contractor or subcontractor which avers  
 34 that the records are true and accurate and the hourly wages  
 35 paid to each worker are not less than the prevailing wage rate



1 required by this chapter.

2     2. The public body in charge of the public improvement  
3 shall keep the records submitted in accordance with subsection  
4 1, paragraph "b", for a period of not less than three years.  
5 The records shall be considered public records and be made  
6 available in accordance with chapter 22. Personal information  
7 submitted in accordance with subsection 1, paragraph "a",  
8 including names, addresses, social security numbers, telephone  
9 numbers, and other identifying information shall remain  
10 confidential and shall not be made public.

11     3. The contractor and each subcontractor shall make  
12 available for inspection the records identified in subsection  
13 1, paragraph "a", to the public body in charge of the public  
14 improvement, its officers and agents, and to the division.

15     4. For the purpose of verifying the accuracy of the records  
16 submitted pursuant to this section, the contractor and each  
17 subcontractor shall make its workers available at the site of  
18 the public improvement for interview by the public body in  
19 charge of the public improvement, its officers and agents, and  
20 the division.

21     5. Contractors and subcontractors performing work on public  
22 improvements subject to this chapter shall post the prevailing  
23 wage rates for each craft, classification, or type of workers  
24 involved in the public improvement in a prominent and easily  
25 accessible place at the site of the public improvement or at  
26 the place or places used by the contractor or subcontractor to  
27 pay workers their wages.

28     Sec. 12. NEW SECTION. 91F.10 Powers of commissioner.

29     The commissioner shall do all of the following:

30     1. Inquire diligently about any complaint of a violation of  
31 this chapter, institute actions for penalties prescribed, and  
32 enforce generally the provisions of this chapter.

33     2. Sue for injunctive relief against the awarding of a  
34 contract, the undertaking of a public improvement, or the  
35 continuation of a public improvement when the prevailing wage

1 rate requirements of this chapter have not been met.

2 3. Investigate and ascertain the wages of workers engaged in  
3 any public improvement in this state.

4 4. a. Enter and inspect the place of business or employment  
5 of a contractor, subcontractor, or workers employed on a public  
6 improvement in this state, for the purpose of examining and  
7 inspecting books, registers, payrolls, and other records of a  
8 contractor or subcontractor that in any way relate to or have a  
9 bearing upon the question of wages, hours, and other conditions  
10 of employment of workers covered under this chapter.

11 b. Copy the books, registers, payrolls, and other  
12 records as the commissioner or the commissioner's authorized  
13 representative deems necessary or appropriate.

14 c. Question the workers for the purpose of ascertaining  
15 whether the provisions of this chapter have been and are being  
16 complied with.

17 d. Administer oaths, take or cause to be taken depositions  
18 of witnesses, and require by subpoena the attendance and  
19 testimony of witnesses and the production of all books,  
20 registers, payrolls, and other evidence relative to the matter  
21 under investigation or hearing.

22 5. Require from a contractor or subcontractor full and  
23 correct statements in writing, including sworn statements,  
24 with respect to wages, hours, names, addresses, and other  
25 information pertaining to its workers and their employment,  
26 as the commissioner or the commissioner's authorized  
27 representative may deem necessary or appropriate.

28 6. Require a contractor or subcontractor to file, within  
29 ten days of receipt of a request, any records enumerated in  
30 subsection 4, sworn as to their validity and accuracy as  
31 required by subsection 5. If the contractor or subcontractor  
32 fails to provide the requested records within ten days, the  
33 commissioner may direct, within fifteen days after the end  
34 of the ten-day period, that the fiscal or financial officer  
35 charged with the custody and disbursements of the funds of the

1 public body, which contracted for construction of the public  
2 improvement or undertook the public improvement, to immediately  
3 withhold from payment to the contractor or subcontractor  
4 up to twenty-five percent of the amount to be paid to the  
5 contractor or subcontractor under the terms of the contract  
6 or written instrument under which the public improvement is  
7 being performed. The amount withheld shall be immediately  
8 released upon receipt by the public body of a notice from  
9 the commissioner indicating that the request for records as  
10 required by this section has been satisfied.

11 7. If a contractor or subcontractor fails to provide  
12 requested records in accordance with subsection 6 within ten  
13 days, direct, within fifteen days after the end of the ten-day  
14 period, the fiscal or financial officer charged with the  
15 custody and disbursements of the funds of the public body,  
16 which contracted for construction of the public improvement or  
17 undertook the public improvement, to pay directly to workers  
18 employed by the contractor or subcontractor from the amount  
19 withheld from the contractor or subcontractor pursuant to  
20 subsection 6 any prevailing wage rates found to be due and  
21 payable to the workers.

22 8. Contract with a person registered as a public accountant  
23 under chapter 542 to conduct an audit of a contractor,  
24 subcontractor, or public body.

25 Sec. 13. NEW SECTION. 91F.11 Notice of violations.

26 1. For purposes of this section:

27 a. "*Accurate records*" means the payroll records required  
28 to be submitted to the public body in charge of the public  
29 improvement by section 91F.9. "*Accurate records*" also means the  
30 hourly rate of contribution and costs paid for fringe benefits  
31 and whether the contributions and costs of the fringe benefits  
32 were paid into a fund or paid directly to the worker.

33 b. "*Decision*" means a determination by the division that a  
34 single violation of this chapter has occurred, warranting the  
35 commissioner to issue a notice of violation to a contractor or

1 subcontractor.

2     *c. "Notice of second violation"* is a formal written notice  
3 issued by the division advising a contractor or subcontractor  
4 that a second or subsequent violation has occurred within three  
5 years from the date of the notice of a first violation.

6     *d. "Notice of violation"* means a formal written notice  
7 issued by the division to a contractor or subcontractor  
8 that the division has made a decision that the contractor or  
9 subcontractor has violated this chapter.

10    *e. "Violation"* means that a contractor or subcontractor has  
11 done one of the following:

12       (1) Failed or refused to pay the prevailing wage rate to one  
13 or more workers as required by this chapter.

14       (2) Failed to keep accurate records as required by this  
15 chapter.

16       (3) Failed to produce for the division accurate records or  
17 produced records not in compliance with this chapter.

18       (4) Refused to submit records or testimony to the division  
19 in response to a subpoena issued in accordance with this  
20 chapter.

21       (5) Refused to comply with the certified payroll provision  
22 of section 91F.9.

23       (6) Refused the division access, at any reasonable hour at  
24 a location within the state, to inspect the contractor's or  
25 subcontractor's records as required by this chapter.

26       (7) Failed to insert into each subcontract or lower-tiered  
27 subcontract and into the public improvement specifications  
28 for each subcontract or lower-tiered subcontract or provide a  
29 written instrument if no contract exists, a written stipulation  
30 that not less than the prevailing wage rate be paid as required  
31 by this chapter, and a statement that if it is found that a  
32 subcontractor's workers engaged in the public improvement have  
33 been paid at a rate of wages less than the prevailing wage rate  
34 required to be paid by the contract, the public body shall  
35 terminate the subcontractor's right to proceed with the work.

1 (8) Failed to obtain a bond in the proper amount that  
2 guarantees the payment of the prevailing wage rates required in  
3 the contract.

4 (9) Failed to post the prevailing wage rates as required by  
5 this chapter.

6 2. After receipt of a complaint or on the division's  
7 initiative, the commissioner shall review the investigative  
8 file to determine whether a violation has occurred for  
9 which the contractor or subcontractor must be given notice.  
10 All information and observations made during an audit or  
11 investigation shall be considered and shall constitute the  
12 basis for the division's decision that this chapter has  
13 been violated and that a notice of violation is required  
14 to be issued. The notice of violation shall identify the  
15 specific violation and the amount of moneys estimated due the  
16 division and in controversy based on reasons contained in the  
17 investigative file.

18 3. In making a decision that a contractor or subcontractor  
19 has failed to allow the commissioner access to accurate  
20 records, the commissioner shall rely on the information  
21 contained in the investigative file, the certified payroll  
22 records submitted to the public body in charge of the public  
23 improvement or any other information, and shall assess a  
24 separate violation for each day worked by each worker on the  
25 public improvement. Each decision of a separate violation  
26 shall be listed in the notice of violation.

27 4. In determining that this chapter has been violated and  
28 that the issuance of a notice of violation is required, the  
29 commissioner shall base the decision on one or any combination  
30 of the following reasons:

31 a. The severity of the violation, which includes the  
32 following:

33 (1) The amount of wages that are determined to be underpaid  
34 pursuant to this chapter.

35 (2) The activity or conduct complained of that violates the

1 requirements of this chapter and was not merely a technical,  
2 nonsubstantive error. Examples of a technical error include  
3 but are not limited to a mathematical error, bookkeeping error,  
4 transposition of numbers, or computer or programming error.

5     *b.* The nature and duration of the present violation and the  
6 prior history of the contractor or subcontractor related to  
7 this history. The prior history considered shall not exceed  
8 seven years before the date of the notice of violation.

9     *c.* Whether the contractor or subcontractor submitted  
10 certified payroll records with the public body in charge of the  
11 public improvement; whether the contractor or subcontractor  
12 has kept payroll records and accurate records for three years;  
13 and whether the contractor or subcontractor produced certified  
14 payroll records in accordance with section 91F.9.

15     *d.* Whether the contractor or subcontractor has violated any  
16 other provision of this chapter.

17     5. The notices of the first, second, and subsequent  
18 violations shall be sent by restricted certified mail,  
19 addressed to the last known address of the contractor or  
20 subcontractor involved. The notices shall contain a reference  
21 to the specific provisions of this chapter alleged to have been  
22 violated, identify the particular public improvement involved,  
23 identify the conduct complained of, and identify whether the  
24 notice is a notice of a first, second, or subsequent violation,  
25 and include a contractor's or subcontractor's statement of  
26 liabilities.

27     Sec. 14. NEW SECTION. 91F.12 Violations — remedies and  
28 penalties.

29     1. If the commissioner determines that a public body has  
30 divided a public improvement into more than one contract for  
31 the purpose of avoiding compliance with this chapter, the  
32 commissioner shall issue an order compelling compliance. In  
33 making a determination whether a public body has divided a  
34 public improvement into more than one contract for the purpose  
35 of avoiding compliance with this chapter, the commissioner

1 shall consider all of the following:

2     *a.* The physical separation of the public improvement  
3 structures or work.

4     *b.* The timing of the work on the public improvement phases  
5 or structures.

6     *c.* The continuity of public improvement contractors and  
7 subcontractors working on public improvement parts or phases.

8     *d.* The manner in which the public body and the contractor  
9 and subcontractors administer and implement work on the public  
10 improvement.

11     2. A worker employed by the contractor or subcontractor who  
12 is paid less than the specified prevailing wage rate under this  
13 chapter shall have a private right of action for the difference  
14 between the amount so paid and the specified prevailing wage  
15 rate, together with costs and reasonable attorney fees as shall  
16 be allowed by the court.

17     3. The contractor or subcontractor shall additionally be  
18 liable to the division for fifty percent of the amount of  
19 underpayments and shall be additionally liable to the worker  
20 for punitive damages in an amount equal to five percent of the  
21 liability to the division for underpayments for each month  
22 following the date of payment during which underpayments remain  
23 unpaid, together with costs and reasonable attorney fees as  
24 shall be allowed by the court.

25     4. If a second or subsequent action to recover underpayments  
26 is brought against a contractor or subcontractor within a  
27 three-year period and the contractor or subcontractor is  
28 found liable for underpayments to a worker, the contractor or  
29 subcontractor shall be liable to the division for seventy-five  
30 percent of the amount of underpayments payable as a result of  
31 the second or subsequent action, additionally liable to the  
32 worker for ten percent of the amount of the liability to the  
33 division for underpayments for each month following the date  
34 of payment during which the underpayments remain unpaid, and  
35 further liable to the worker for triple the difference between

1 the amount so paid to the worker and the specified prevailing  
2 wage rate required, together with costs and reasonable attorney  
3 fees as shall be allowed by the court. The three-year period  
4 begins to run from the date the contractor or subcontractor is  
5 determined liable for the first violation.

6 5. The commissioner and any interested party shall also  
7 have a right of action on behalf of a worker who has a right of  
8 action under this chapter. An action brought to recover the  
9 same shall be deemed to be a suit for wages, and all judgments  
10 entered in the action shall have the same force and effect as  
11 other judgments for wages. At the request of a worker employed  
12 by a contractor or subcontractor who is paid less than the  
13 prevailing wage rate required by this chapter, the commissioner  
14 may take an assignment of the wage claim in trust for the  
15 assigning worker and may bring any legal action necessary to  
16 collect the claim, and the contractor or subcontractor shall  
17 be required to pay the expenses of the division incurred in  
18 collecting the claim.

19 6. In circumstances where a worker may not be available to  
20 receive a payment or judgment, the payment due the worker shall  
21 revert to the division after one year elapses from the time  
22 payment was attempted to be made or judgment was rendered.

23 7. a. It is a violation of this chapter to do any of the  
24 following:

25 (1) To request or demand, either before or after the worker  
26 is engaged in a public improvement, that a worker pay back,  
27 return, donate, contribute, or give any part or all of the  
28 worker's wages, salary, or thing of value, to any person, upon  
29 the statement, representation, or understanding that failure to  
30 comply with the request or demand will prevent the worker from  
31 procuring or retaining employment.

32 (2) To directly or indirectly pay, request, or authorize any  
33 other person to violate this chapter.

34 b. This subsection does not apply to an agent or  
35 representative of a duly constituted labor organization acting



1 in the collection of dues or assessments of the organization.

2 8. In addition to other penalties provided under this  
3 chapter, whoever induces a worker working on a public  
4 improvement subject to this chapter to give up or forego  
5 any part of the prevailing wage rates to which the worker  
6 is entitled under this chapter by threat not to employ  
7 or by threat of dismissal from employment is guilty of a  
8 serious misdemeanor. An agreement between the worker and the  
9 contractor or subcontractor to work for less than the specified  
10 prevailing wage rate shall not be a defense to criminal  
11 prosecution.

12 9. a. A contract shall not be awarded by a public  
13 body to a contractor or subcontractor who, on two separate  
14 occasions within a three-year period, has been determined  
15 to have violated this chapter, or to any firm, corporation,  
16 partnership, or association in which the contractor or  
17 subcontractor has any interest until five years have elapsed  
18 from the date on which a final determination is rendered  
19 finding the contractor or subcontractor in violation of this  
20 chapter.

21 b. For the purposes of this subsection, "*any interest*" means  
22 an interest in the entity bidding or performing work on the  
23 public improvement, whether as an owner, partner, officer,  
24 manager, employee, agent, consultant, or representative. "*Any*  
25 *interest*" includes but is not limited to all instances where the  
26 barred contractor or subcontractor receives payments, whether  
27 cash or any other form of compensation, from any entity bidding  
28 or performing work on the public improvement, or enters into  
29 a contract with the entity bidding or performing work on the  
30 public improvement for services performed or to be performed  
31 under contract that have been or will be assigned or sublet,  
32 or for vehicles, tools, equipment, or supplies that have been  
33 or will be sold, rented, or leased during the period from the  
34 initiation of the barring proceedings until the end of the term  
35 of the barring period. "*Any interest*" does not include shares

1 held in a publicly traded corporation if the shares were not  
2 received as compensation after the barring of an entity bidding  
3 or performing work on a public improvement.

4 10. If the division determines that a contractor or  
5 subcontractor has violated this chapter on two separate  
6 occasions within a three-year period, the division shall list  
7 on the department of workforce development's internet site and  
8 keep on record the name of the contractor or subcontractor and  
9 give notice by restricted certified mail of the list to any  
10 public body requesting the list.

11 11. Upon a determination that a contractor or subcontractor  
12 has violated this chapter on two separate occasions within a  
13 three-year period, the division shall notify the violating  
14 contractor or subcontractor by restricted certified mail. The  
15 contractor or subcontractor has ten working days to request of  
16 the division a hearing before an administrative law judge on  
17 the alleged violation. Failure to respond within ten working  
18 days shall result in automatic and immediate barring of the  
19 violator from work as provided in subsection 9 and placement  
20 and publication of the violator's name on the department of  
21 workforce development's internet site as provided in subsection  
22 10. If the contractor or subcontractor requests a hearing  
23 within ten working days by restricted certified mail, the  
24 department of inspections and appeals shall set a hearing  
25 before an administrative law judge on the alleged violation.  
26 The hearing shall take place no later than forty-five calendar  
27 days after the receipt by the division of the request for a  
28 hearing. An action by an administrative law judge constitutes  
29 final agency action and is subject to judicial review under  
30 section 17A.19.

31 12. The attorney general shall prosecute the cases  
32 identified in this section upon complaint by the commissioner  
33 or by any interested person. In any proceeding brought  
34 pursuant to this section, the commissioner shall be represented  
35 by the attorney general.

1     13. This section does not give reason or provide cause for  
2 an injunction to halt or delay any public improvement.

3      Sec. 15. NEW SECTION. 91F.13 Apprentices.

4 This chapter shall not prevent the employment of apprentices  
5 upon public improvements. However, an apprentice employed  
6 on a public improvement must be registered with the United  
7 States department of labor's office of apprenticeship under  
8 an apprenticeship program registered with that office, paid  
9 the proper wages specified in the standards of apprenticeship,  
10 and engaged only in the trade to which the apprentice is  
11 registered. If the apprentice is employed on a public  
12 improvement in a trade to which the apprentice is not  
13 registered with the United States department of labor's office  
14 of apprenticeship, the apprentice shall be treated as any other  
15 worker under this chapter.

16      Sec. 16. IMPLEMENTATION OF ACT. Section 25B.2, subsection  
17 3, shall not apply to this Act.

18       Sec. 17.   EFFECTIVE DATE.   This Act takes effect January 1,  
19 2016.

20	EXPLANATION
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21 The inclusion of this explanation does not constitute agreement with  
22 the explanation's substance by the members of the general assembly.

23 This bill requires a contractor to pay workers the same  
24 hourly wage plus fringe benefits for a public improvement  
25 costing more than \$25,000 as prevails in the locality of the  
26 public improvement. The bill allows the per-hour wage rate to  
27 be based on what is normally paid in the area by contractors  
28 for similar projects, and to be adjusted on a yearly basis by  
29 the department of workforce development.

30 The wage rates that the workers must be paid shall also  
31 include benefits such as medical care, life insurance, overtime  
32 pay, and vacation and holiday pay. The bill applies to any  
33 public improvement that receives money from a public body and  
34 includes most types of public improvements from construction to  
35 road maintenance to painting to hauling.

1     The labor commissioner determines the wage rates for  
2 specific geographical areas and for specific crafts,  
3 classifications, and types of workers. This information must  
4 be posted on the department of workforce development's internet  
5 site. In determining what the wage rate for a worker is, the  
6 commissioner may consult collective bargaining agreements, wage  
7 rate determinations for federal projects in the same area, and  
8 other information the department may receive from contractors  
9 who participate in an apprenticeship program approved by the  
10 federal office of apprenticeship.

11     Any person affected by the wage rates has 15 days after the  
12 department of workforce development has posted the wage rates  
13 on its internet site to object in writing, stating the specific  
14 reason for the objection, to the labor commissioner. The  
15 commissioner must reconsider the determination being objected  
16 to, and either affirm or modify it within 15 days of receiving  
17 the objection.

18     If the commissioner declines to modify the determination,  
19 within 10 days, the person affected may submit an objection in  
20 writing to the division of labor services, stating the specific  
21 reasons for the objection. A hearing must be set by the  
22 department of inspections and appeals before an administrative  
23 law judge within 45 days after the objection is filed. The  
24 person who filed the objection must show the administrative  
25 law judge that the wage rate was somehow made in error. The  
26 division is required to show how it determined the wage  
27 rate. The administrative law judge must make a decision about  
28 the wage rate within 30 days and it is considered a final  
29 determination.

30     The bill requires that contractors and subcontractors not  
31 pay the workers less than the established wage rate but does  
32 not prohibit them from paying the workers more than the wage  
33 rate. The wage rate must be paid without any deductions  
34 such as for food, sleeping quarters, use of tools, or safety  
35 equipment.

1     The bill also requires the public body to monitor the  
2 contractors and subcontractors to ensure that the wage rate  
3 is paid. A call for bids must state that the wage rate must  
4 be included in the bids for the public improvement. All  
5 bids shall list the specific wage rates for each craft,  
6 classification, and type of worker needed for the public  
7 improvement. All contractors and subcontractors are required  
8 to sign a contract that states they will pay workers the wage  
9 rate determined by the division. If the contractors and  
10 subcontractors are found to not be paying the wage rate, the  
11 contract states that the contractor's or subcontractor's right  
12 to work on the public improvement and get paid for work already  
13 done may be terminated.

14     Before the contractor or subcontractor receives the final  
15 payment for the public improvement, the public body overseeing  
16 the public improvement must certify the payments include proper  
17 amounts due the workers, and the contractor or subcontractor  
18 must swear under oath that the records are accurate.

19     The bill does not apply to public improvement projects  
20 funded by the federal government that require federal  
21 prevailing wage rates. However, unless a federal provision  
22 applies, if a public improvement project is financed by both a  
23 state public body and the federal government, then the higher  
24 of the applicable wage rates shall be paid to the workers.

25     The bill also requires that contractors and subcontractors  
26 keep detailed records for at least three years about the  
27 workers, the rates paid, and the hours worked for each  
28 public improvement. The records are public records and must  
29 be available for inspection. However, workers' personal  
30 information is not available to the public for inspection.  
31 During the public improvement, a contractor or subcontractor  
32 must present a certified weekly payroll to demonstrate that  
33 the correct and full wage rate is being paid to workers. The  
34 contractors and subcontractors must make all workers available  
35 on-site to officials for interviews so that the records'

1 accuracy can be checked. Contractors and subcontractors must  
2 also post the wage rates for each craft, classification, and  
3 type of worker in a public place where workers can see the  
4 posting or at the place where they receive their wages.

5 The commissioner is given specific powers for investigation,  
6 enforcement, and penalization. The commissioner may sue to  
7 prevent a contractor or subcontractor from being awarded  
8 a contract for a public improvement when the wage rate  
9 requirements have not been met. The commissioner is given the  
10 power to withhold payments if a contractor or subcontractor  
11 does not produce records upon request and to pay the workers  
12 directly if the contractor or subcontractor continues to refuse  
13 to provide records.

14 After receiving a complaint, the commissioner shall  
15 investigate whether there has been a violation. If the  
16 commissioner determines there has been a violation, the  
17 contractor or subcontractor must be given notice of that  
18 violation. The notice is a formal written statement from the  
19 department of workforce development that states the specific  
20 violation and the amount of money due as a penalty.

21 If a public body has divided up a public improvement to  
22 avoid having to pay the wage rate, the commissioner shall order  
23 compliance. A worker who is paid less than the wage rate set by  
24 this law can sue for the difference in payment and collect the  
25 difference along with costs and attorney fees in court.

26 The contractor or subcontractor shall also have to pay the  
27 division 50 percent of the amount of underpayment and is liable  
28 to the worker for punitive damages of up to 5 percent of the  
29 underpayments for each month the underpayment remains unpaid  
30 plus costs and attorney fees.

31 If a second or subsequent action for underpaying a worker  
32 is brought against a contractor or subcontractor within a  
33 three-year period and the contractor or subcontractor is  
34 liable, the contractor or subcontractor shall pay the division  
35 75 percent of the amount of underpayment, is liable to the

1 worker for 10 percent of the penalty for underpayments for each  
 2 month following it that the underpayment remains unpaid, and  
 3 is liable to the worker for triple the difference between the  
 4 amount paid to the worker and the amount due under the wage  
 5 rate set by the commissioner plus costs and attorney fees.

6 The commissioner or any interested party has a right of  
 7 action on behalf of any individual who has a right of action  
 8 under the bill. The commissioner may file a lawsuit in trust  
 9 for a worker who assigns the claim and then bring legal action  
 10 to collect the claim. The contractor shall be required to pay  
 11 the expenses for collection of the claim.

12 The bill prohibits a person from requesting or demanding  
 13 that a worker pay back, return, donate, contribute, or give  
 14 any part or all of the worker's wages, salary, or thing of  
 15 value, to any person who asserts that failure to comply with  
 16 the request or demand will prevent the worker from procuring  
 17 or retaining employment. The bill prohibits a person from  
 18 paying, requesting, or authorizing any other person to violate  
 19 the requirements of the bill. However, these provisions do  
 20 not apply to authorized labor organization representatives  
 21 collecting dues or assessments.

22 In addition to other penalties under the bill, anyone who  
 23 attempts to get a worker to give up any part of compensation  
 24 on a public improvement by threat not to hire or by threat of  
 25 firing is guilty of a serious misdemeanor. Any agreement to  
 26 work for less than the determined wage rate is not a defense to  
 27 criminal prosecution. A serious misdemeanor is punishable by  
 28 confinement for no more than one year and a fine of at least  
 29 \$315 but not more than \$1,875.

30 If a contractor or subcontractor has violated the bill twice  
 31 within a three-year period, the contractor or subcontractor  
 32 or any company or group associated with the contractor or  
 33 subcontractor shall not be given any public improvement work  
 34 for five years. The department of workforce development  
 35 shall keep a list on its internet site of contractors and

1 subcontractors who have violated the bill twice within a  
2 three-year period and notify public bodies by restricted  
3 certified mail.

4 A contractor or subcontractor who has been notified of  
5 the second violation has 10 days to request a hearing before  
6 an administrative law judge. A hearing must be held within  
7 45 days of the request. If no hearing is requested, the  
8 contractor is barred from receiving public improvement work and  
9 its name and information is posted on the department's internet  
10 site.

11 Apprentices employed on a public improvement project must  
12 be registered with the federal office of apprenticeship.  
13 Apprentices must receive the wages set out in the standards of  
14 apprenticeship and do only the work specified in the trade to  
15 which they are apprenticed. An apprentice not registered with  
16 the federal program shall be paid the wage rate the same as any  
17 other worker.

18 The bill may include a state mandate as defined in Code  
19 section 25B.3. The bill makes inapplicable Code section 25B.2,  
20 subsection 3, which would relieve a political subdivision from  
21 complying with a state mandate if funding for the cost of  
22 the state mandate is not provided or specified. Therefore,  
23 political subdivisions are required to comply with any state  
24 mandate included in the bill.

25 The bill takes effect January 1, 2016.